IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 13766 of 2004

Between:

P.V. Shanta, W/o. K.S. Gurumurthy,
R/o. Adilabad District.

..... PETITIONER

AND

1 A.P.S.R.T.C. Rep by its Regional Manager, Adilabad District.
2 The Divisional Manager, A.P.S.R.T.C. Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction, especially one in the nature of Writ of Mandamus: i) declaring the Tender Notification No. 02/797(12)/2004 dated 24-7-2004, published in Daily-Newspaper on 30-7-2004, insofar as, inviting Tender for 'Cool-drinks, Tea, Coffea, Snacks & Bakery shop at Adilabad Bus-stand, being run by the petitioner is concerned, as illegal, arbitrary and set aside the same; ii) consequently, direct the respondents to renew the License of the Petitioner, pertains to her 'Cool-drinks' Tea, Coffea, Snacks & Bakery shop, situated in Adilabad Bus-stand, for further period of 3 more years from 4-10-2004;

Counsel for the Petitioner: MR.K.VASUDEVA REDDY

Counsel for the Respondent Nos.1&2: SMT.G.JYOTHI KIRAN

The Court at the stage of admission made the following:

ORDER:

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The petitioner is a lessee of one of the shops of the respondent Corporation at Adilabad Bus Depot. Her licence is valid till 04-10-2004. On 28-06-2004, the second respondent addressed a letter to the petitioner, which was received by her on 05-07-2004 intimating that her contract period is coming to end on 4-10-2004 and as per the resolution No.165/2003 dated 08-10-2003 the first respondent decided to extend the licence period of the existing licences of the Canteens, shops, stalls etc., who were awarded the licence prior to 01-03-2003. As per the above proceedings, the licence period is sought to be extended by three more years, to complete the maximum licence period of six years, on a condition that the licence fee shall be increased by 30% in 4th year, 25% in fifth year and 20% in the sixth year, subject to condition that the existing licensees have to give their willingness in writing to the Divisional Manager concerned, three months before the expiry of the licence period i.e., 04-10-2004. The petitioner, on receipt of the said letter, addressed the second respondent on 08-07-2004 asking for one-month time to take a decision about the extension of the licence period i.e., till 08-08-2004. Ultimately, on 20-07-2004 i.e., within 15 days after the said letter, she expressed her willingness for renewal of her licence for three more years, on the usual terms and conditions prescribed in the letter. The second respondent gave a tender notice dated 24-07-2004, which was published in the paper on 30-07-2004 for auction of the shops including the shop in possession of the petitioner. The petitioner being aggrieved by the said tender notice approached this Court seeking a writ of Mandamus declaring that the tender notice dated 24-07-2004 published on 30-07-2004 as illegal and arbitrary and requested to set aside the same.

2. The petitioner is willing to abide by all the conditions imposed by the Corporation through the letter dated 28-06-2004. The respondent also expressed its willingness to extend the licence by three more years, to those who are continuing in the existing shops, who were granted licences prior to 01-03-2003. Despite all the above favourable circumstances, the learned counsel for the respondents submits that since the tender notice was already published and applications were received, it will be difficult for the respondents to consider the request of the petitioner and as she failed to give his consent three months prior to the expiry date of the licence, the request of the petitioner cannot be considered.

3. The intention of the Corporation is seen from its proceedings that it is prepared to help the existing licencees if they are prepared to abide by the conditions imposed by the Corporation. Since the petitioner is ready and willing to abide by those conditions, the non-submission of the willingness three months prior to the expiry date, cannot come in the way of the respondents. Despite issuing tender notice in respect of the shop under the occupation of the petitioner, the respondent can consider his request and cancel the tender in respect of the said shop.

4. The learned counsel for the respondent further submitted that the petitioner is not regularly paying the licence fees and she is becoming frequent defaulter. Therefore, it is not desirable to extend the benefit to her.

5. If the petitioner commits default in payment of rent, the respondent is at liberty to invoke the conditions of licence and pass appropriate orders regarding her licence, but that should not come in the way to consider the request of the petitioner to continue her licence.

6. In the light of the above circumstances, the Writ Petition is allowed. The respondents are directed to consider the request of the petitioner, and if she is ready to fulfill all other conditions, the respondent shall continue her licence for three more years by canceling the tender notice in respect of the shop under her licence. If the petitioner commits any default or breach any of the conditions of the licence, the respondents have every liberty to pass appropriate orders against the petitioner. No order as to costs.

Dr. G.YETHIRAJULU, J

05th August, 2004.

SKM

NOTE:

C.C. by Tomorrow.

Operative Portion by wire at partys' cost.

B/o.

SKM

To

1 The Regional Manager, A.P.S.R.T.C., Adilabad District.
2 The Divisional Manager, A.P.S.R.T.C. Adilabad District.

3 Two C.D.Copies